

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR 119-099
)	
JIMMY DEMARCUS WILBURN)	

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

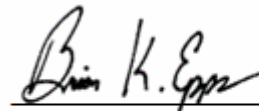
Before the Court is Defendant’s motion to suppress. (Doc. no. 20.) For the reasons set forth below, the Court **REPORTS** and **RECOMMENDS** Defendant’s motion to suppress be **DENIED**.

A motion may not be filed outside the deadlines set at arraignment except by leave of court upon a showing of cause. United States v. Smith, 918 F.2d 1501, 1509 (11th Cir. 1990); see Fed. R. Crim. P. 12(c). Additionally, a district court may dismiss a motion to suppress as untimely. See United States v. Vanholten, 542 F. App’x 776, 778-79 (11th Cir. 2013) (approving denial of motion to suppress as untimely with failure to show good cause for delay); United States v. Cox, 281 F. App’x 943, 944-45 (11th Cir. 20008) (approving denial of motion to suppress as untimely).

Defendant’s deadline for filing pretrial motions was August 28, 2019, and the government’s pretrial motions period deadline was September 4, 2019. (See doc. no. 15.) No motions were filed by either party. However, on October 17, 2019, after this case was set for trial and continued, Defendant filed his Motion to Suppress Evidence Illegally Seized. (Doc. no. 20.) Defendant’s brief in support of said motion was filed the next day. (Doc. no.

21.) Thus, the Court ordered Defendant to show good cause for the delay by October 31, 2019, and warned Defendant the Court would deny as untimely Defendant's motion if he failed to respond. (Doc. no. 22.) Defendant failed to file any response by October 31, 2019. Defendant's blatant refusal to abide by the Court's pretrial motions deadline and failure to provide good cause for the delay is grounds for denial. Fed. R. Crim. P. 12(c); Smith, 918 F.2d at 1509; Vanholten, 542 F. App'x at 778-79. Accordingly, the Court **REPORTS** and **RECOMMENDS** Defendant's motions to suppress be **DENIED**. (Doc. no. 20.)

SO REPORTED and RECOMMENDED this 4th day of November, 2019, at Augusta, Georgia.



BRIAN K. EPPS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA